

**NORTH CAROLINA COMMISSION FOR MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE SERVICES**

Draft Commission Minutes

**Doubletree Hotel
1707 Hillsborough Street
Raleigh, NC 27605**

Thursday, May 23, 2013

Attending:

Dr. Greg Olley, Phillip Mooring, Amie T. Brendle, James Bowman, Dr. John Carbone, Dr. James Finch, R. Michael Grannis, Dr. Tyehimba Hunt-Harrison, F. Michael Maybee, Roger Dillard, Ann Shaw, Dr. Peggy Terhune, Don Trobaugh, Dr. Richard Brunstetter, Pamela Poteat, Beverly Morrow, Kevin Oliver, John Owen, Dr. Marian Spencer, David Turpin, Carol Vale, Nancy Moore, Linda Warden

Excused Members:

Dr. Diana Antonacci, Anna Cunningham, Elizabeth Ramos, Elizabeth Bowen

Division Staff:

Jim Jarrard, W. Denise Baker, Steven E. Hairston, Marta T. Hester, Brenda T. Smith

Others:

J. Luckey Welsh, Glenda Stokes, Stuart Berde, Bill Bronson, Dawn Scott, Laura White

Call to Order:

Dr. Greg Olley, Chairman, NC Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (Commission) called the meeting to order at 9:37 a.m. He asked for a moment of reflection, welcomed everyone to the meeting and reviewed the ethics reminder. Following introductions, he announced agenda changes and reminded members about the ethics training requirement and Statement of Economic Interest (SEI) filing deadline.

Approval of Minutes:

Linda Warden, Commission member, requested the minutes be changed to reflect her attendance at the February 28, 2013, meeting.

Upon motion, second and unanimous vote, the Commission adopted the minutes of the February 28, 2013 meeting as amended.

Chairman's Report

- Dr. Olley announced that Kevin Oliver is being nominated as Chairperson of the Rules Committee and Anna Cunningham is being considered for the role of Advisory Committee Chairperson.

Upon motion, second and unanimous vote, the Commission approved the selection of Kevin Oliver as the Chairperson of the Rules Committee and Anna Cunningham as Chairperson of the Advisory Committee.

- Dr. Olley advised the Commission a letter was submitted to Aldona Wos, M.D., Secretary of the NC Department of Health and Human Services, expressing the Commission's concerns about House Bill 622, *Appointee Serves at Pleasure of Appointer*. Dr. Olley added that while the letter was successfully delivered, he was concerned that all of the Commission members did not vote regarding its submission. W. Denise Baker, Division Affairs Team Leader, Operations Support Section, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (NC DMH/DD/SAS), informed the Commission House Bill 622 failed to make crossover.
- Dr. Olley concluded his report by informing the Commission of his willingness to write a letter to express concerns and comments on their behalf regarding any pending legislation. Michael Grannis questioned the Commission's ability to recommend proclamations and resolutions. Ms. Baker responded affirmatively advising that the Commission has taken action via resolutions, letters, memoranda, and reports in the past. Ms. Baker indicated that the Commission, in taking action, will need to identify the content and recipients of its communications.

Local Management Entity (LME) Client Rights Committees and Provider Client Rights Committee – Rule 10A NCAC 27G. 0504

The rule on Local Management Entity (LME) Client Rights Committees and Provider Client Rights Committee – Rule 10A NCAC 27G. 0504 was presented by Glenda Stokes, Team Leader, Customer Services and Community Rights Team, Advocacy and Customer Service Section, NC DMH/DD/SAS. This rule amends the current Client Rights Committee rule. It also serves to specify LME-MCO Board requirements to oversee the committees and LME-MCO and provider committee duties and responsibilities. The amended language is necessary to update the rule to conform to current developments in Mental Health Transformation. The Commission has rulemaking authority for this rule and the rule is being presented for final review and approval before submission to the Rules review Commission. Changes requested during the rule's publication have been incorporated, along with those requested at the April Rules Committee meeting.

Proposed Amendment of 10A NCAC 26F. 0105, Schedule IV

Bill Bronson, Drug Control Unit Program Manager, NC DMH/DD/SAS, presented Rule 10A NCAC 26F .0105 to be amended to include the substance, Lorcaserin, in order to maintain consistency with the federal Department of Health and Human Services drug scheduling.

Mr. Bronson responded as indicated to the following questions posed by members of the Commission:

- Ms. Linda Warden questioned what the consequences of choosing not to schedule the substance would be. Mr. Bronson noted that failure to schedule a substance consistent with the federal government creates a discrepancy between state and federal law and potentially creates problems with charges and punishment related to possession or use of the substance.
- Dr. Peggy Terhune questioned the Commission's or the government's ability to revisit any scheduling decisions in the future. Mr. Bronson indicated that the Drug Enforcement Agency (DEA) has the ability to take emergency action to move a substance from one schedule to another. He added that the NC General Assembly can schedule a substance independent of action by the Commission and indicated that individuals can petition to have a substance scheduled.

Dr. Finch and Mr. Bowman both provided support for this proposed amendment and reiterated the concerns voiced by Mr. Bronson related to failing to schedule a substance consistent with action taken by the federal government.

Upon motion, second, and unanimous vote, the Commission approved the proposed amendment of 10A NCAC 26F. 0105 to add the substance, Lorcasein, under Schedule IV.

Division Directors' Reports:

Luckey Welsh, Interim Director, NC Division of State Operated Healthcare Facilities (DSOHF) began his report by addressing three special provisions and areas of concern within the Senate budget:

- **Proposed Closure of the Alcohol and Drug Abuse Treatment Centers (ADATC)**
 - Mr. Welsh explained that the Senate proposed to close all three ADATCs, halting admissions by July 1, 2013, and closing the facilities September 1, 2013. He indicated that each of these facilities have 80 beds and are certified as psychiatric hospitals that specialize in the treatment of substance use disorders with co-occurring diagnosis of mental illness. Mr. Welsh noted that these facilities often serve individuals who have experienced failure at the community level of care. He added that his staff is currently working on a strategy with the NC House of Representatives to inform, educate, influence and perhaps halt the Senate's proposal.
- **Closure of the Wright School**
 - Mr. Welsh indicated that this program provides best practice residential mental health intervention to children with serious emotional and behavioral disorders. Dr. Olley mentioned that his colleague conducted research of the effectiveness of the Wright School. He agreed to provide a copy of this research to Mr. Welsh.
- **Discontinue VISTA**
 - Mr. Welsh indicated that although VISTA is a free electronic record system being used at two sections at Central Regional Hospital, the Senate has proposed to discontinue VISTA until a one-year study has been completed.

Mr. Welsh provided the explanations below in response to questions and comments received from the Commission:

- 90% of the patients within the ADATCs are indigent.
- Approximately 550 employees will lose their jobs if the ADATCs close.
- While Division and Department staff members have already provided information to the state legislature to address these issues through presentations, they are only allowed back to provide further information through an invitation from the NC General Assembly.
- He will provide talking points to the Commission if they choose to send a letter to the state legislature to express objection to these issues.
- The recommendation to fund a fourth psychiatric hospital within the state is not in the Senate budget.
- The proposal to move dental hygienist out of rural areas and place them into health departments is also an area of concern.

Jim Jarrard, Acting Director, NC DMH/DD/SAS, announced that Dave Richard is the new Director of the NC DMH/DD/SAS; he is scheduled to begin work Tuesday, May 28, 2013.

Mr. Jarrard added that he will continue his role as the Deputy Director. As part of his Division Director's Report, Mr. Jarrard shared the following:

- Addressing the lack of funding for group homes is not in the Senate budget.
- The Senate communicated that their budget is driven by Medicaid, and any money left will go into the budget for Medicaid.
- The \$15 million reduction in the budget is the result of the savings from the merger of the Local Management Entities – Managed Care Organizations (LMEs – MCOs).
- As part of the Department of Justice Settlement Agreement, the State received a visit from the reviewer. (Mr. Jarrard also added he was hoping Jessica Bradley would be able to attend the Commission meeting to provide an update)
- Supported employment is also an issue that will come into play under DOJ.
- NC Tracks will go live on July 1, 2013.
- The consolidation of Smoky Mountain and Western Highlands Network is moving forward and is to be effective October 1, 2013. Both the transition plan and the management plan required for the consolidation to proceed must be approved by DHHS.

At the conclusion of Mr. Jarrard's report, Phillip Mooring, Vice Chairman of the Commission, thanked him for his assistance to the state.

Advisory Committee Report

Dr. Olley presented the Advisory Committee report in Anna Cunningham's absence; Ms. Cunningham chaired the Advisory Committee meeting held on April 25, 2013. At the April meeting, Dr. Olley discussed a handout on legislation of interest to the Commission; Ms. Denise Baker was to provide an update of this legislature during the Commission's afternoon session.

Anna Cunningham disseminated a handout, *Suggested Database Items for Matrix for NC Commission for MHDD/SAS*, and asked the Advisory Committee members to list their top five (5) topics of importance for the Commission to study and address. She agreed to compile all of the information and send it to the full Commission. While there was an opportunity for each of the members to share their primary issues of concern, the main topics included:

- Capacity for Educational Resources and Capacity for Housing in all Disability Areas
- Education and Training
- Outreach in Communities to Provide for a Better Understanding of People with MH/DD/SAS issues
- Drug Security for Prescription Mail Orders (especially Veterans)
- Screening Older Adults for Substance Abuse
- Capacity in Communities as it applies to Adolescents
- Direction of Mental Health Reform
- Quality of Care
- MCOs and the Need for Statewide Policies
- Need to Develop a better Statewide Provider and Resources List
- Lack of Knowledge from Providers about Controlled Substance Reporting System
- Involuntary Commitment and Lack of Capacity
- Concrete Measurable Care and Gaps in Services
- Assessment of IDD/DD Community
- MCOs Need to Develop a Matrix on Budgeting Management and Distribution

- Transportation
- Best Practices for Medical Providers in the State

Rules Committee Report

Mr. Oliver advised the Commission that the Rules Committee met on Thursday, April 25, 2013. Dr. Olley discussed a handout on legislation of interest, which will be presented by Ms. Denise Baker during the Commission's afternoon session. An update was provided on the Subcommittee meeting held on Rule 10A NCAC 27G. 0504 – Local Management Entity Client Rights Committee and Provider Client Rights Committee. The rule was presented by Glenda Stokes, Team Leader, Customer Services and Community Rights, NC DMH/DD/SAS, Advocacy and Customer Service Section. Ms. Stokes will be presenting the rule again today for the full Commission.

Old and New Business

Under Session Law 2013-18, *An Act to Amend the Laws on Incapacity to Proceed*, the Commission is granted rulemaking authority with a December 1, 2013, execution date. The specifics are outlined below:

SECTION 9.

The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall develop and adopt rules by December 1, 2013, to require forensic evaluators appointed pursuant to G.S. 15A-1002(b) to meet the following requirements:

- (1) Complete all training requirements necessary to be credentialed as a certified forensic evaluator.*
- (2) Attend annual continuing education seminars that provide continuing education and training in conducting forensic evaluations and screening examinations of defendants to determine capacity to proceed and in preparing written reports required by law.*

SECTION 10.

The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall by December 1, 2013, adopt guidelines for treatment of individuals who are involuntarily committed following a determination of incapacity to proceed and a referral pursuant to G.S. 15A-1003. The guidelines shall require a treatment plan that uses best practices in an effort to restore the individual's capacity to proceed in the criminal matter.

Dr. Olley requested an update from Ms. Baker and asked that the rules be presented at the Rules Committee meeting to be held in July 2013. Ms. Baker responded that the work group to develop the rule language is being chaired by Dr. Ureh Lekwawa, the Clinical Policy Director at the NC DMH/DD/SAS with the assistance of Laura White, Team Leader, Psychiatric Hospitals, DSOHF. Ms. Baker advised of the next meeting and informed the members that if the language is not ready to be presented at the July meeting, it will be presented in August at the next full Commission meeting.

John Owen, Commission member, requested a status update on the No Smoking Rule. In Ms. Baker's update, she clarified that the Office of State Budget and Management reviewed and approved the fiscal note; legal counsel for the DHHS Secretary has also approved the rule. Dr. Olley also directed Commission members to let Ms. Baker know if their term was expiring soon and they were interested in being reappointed. Dr. Richard Brunstetter, Commission member, advised that he had served for many years and was not planning to seek reappointment after his term expires.

Legislation Update

A handout entitled, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 2013-14 Legislation Session, Applicable Bills was disseminated and presented by Ms. Baker from the NC DMH/DD/SAS. The following bills were discussed:

- Session Law 2013-18 – *Incapacity to Proceed Amendments*
- House Bill 580 – *Establish Statewide Telepsychiatry Program*
- House Bill 320 – *Medicaid Managed Care/Behavioral Health Services*
- House Bill 622 – *Appointee Serves at Pleasure of Appointer*
- House Bill 981 – *New MHDDSAS Region & Psych Hospital*
- Senate Bill 206 – *Strengthen Controlled Substances Reporting System*
- Senate Bill 553 – *LME/MCO Enrollee Grievances and Appeals*
- Senate Bill 222/House Bill 173 – *Revise Controlled Substances Reporting*

Following Ms. Baker's presentation, Michael Grannis, Commission member, stated the Commission needed to discuss and reach a consensus on the concerns it has as a body and vote regarding whether to move forward with a resolution.

Upon motion, second, and unanimous vote, the Commission approved a resolution to be sent to chairpersons of the House and Senate Appropriations Committees with copies to Governor Pat McCrory and Secretary Wos, requesting that the following three items not be eliminated in the budget: Personal Care Services, the DHHS Alcohol and Drug Abuse Treatment Centers and the Wright School.

Public Comment Period

There were no public comments.

There being no further business, the meeting adjourned at 2:40 pm.